IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5160 OF 2005

Shri Jagannath Bahiru Kanase : Petitioner

V/s.

Shri Vitthal Dadu Kanase & Ors. : Respondents

...

Mr.Vijay Killedar for the petitioner.

Mr.Dilip Bodke for the respondent no.1.

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CORAM : S.A. BOBDE, J.

August 8, 2005.

P.C.:

1. The petitioner is a judgement-debtor. He has challenged the order dated 19.7.2005 passed by the Civil Judge, Junior Division, Satara, in execution. The respondents have obtained a decree for demolition of a shed on plot no.88. This decree is dated 15.7.1996. Thereafter, execution is levied on 25.11.2004. Throughout the suit, the petitioner did not contend that there is no shed on plot no.88 which is clearly admitted by the learned counsel for the petitioner. Suddenly, in the course of execution, the petitioner submitted that "it is not certain that shed is in particular plot" and, therefore, sought appointment of the City Survey Officer,

T.I.L.R. or any Survey Authority as the Court Commissioner. The executing Court has viewed this application as an unnecessary attempt to prolong the execution of the decree. Accepting the petitioner's prayer, the executing Court has appointed one Advocate Mr.S.R.Jambhale, Satara, for execution of the decree in respect of removing the shed in the suit property. There is no reason to apprehend that the learned Court Commissioner will not faithfully execute the decree as passed by the trial Court.

2. There is no merit in this petition which is hereby dismissed.

S.A. BOBDE, J.